

Environmental Protection Agency

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any party to the proceedings require or permit further filings or other action, such as an informal conference, oral argument, additional written submissions, or an evidentiary hearing. Such further action shall be allowed only when necessary for full and fair resolution of the issues arising from the application and shall take place as promptly as possible. A motion for further filings or other action shall specifically identify the information sought on the disputed issues and shall explain why the further filings or other action is necessary to resolve the issues.

(c) In the event that an evidentiary hearing is required or permitted by the adjudicative officer, such hearing and any related filings or other action required or permitted shall be conducted pursuant to the procedural rules governing the underlying adversary adjudication.

§ 17.26 Decision on application.

The Presiding Officer shall issue a recommended decision on the application which shall include proposed written findings and conclusions on such of the following as are relevant to the decision:

(a) The applicant's status as a pre-vailing party;

(b) The applicant's qualification as a "party" under 5 U.S.C. 504(b)(1)(B);

(c) Whether EPA's position as a party to the proceeding was substantially justified;

(d) Whether the special circumstances make an award unjust;

(e) Whether the applicant during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; and

(f) The amounts, if any, awarded for fees and other expenses, explaining any difference between the amount requested and the amount awarded.

§ 17.27 Agency review.

The recommended decision of the Presiding Officer will be reviewed by EPA in accordance with EPA's procedures for the type of substantive proceeding involved.

§ 17.28 Judicial review.

Judicial review of final EPA decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 17.29 Payment of award.

An applicant seeking payment of an award shall submit a copy of the final decision granting the award to the Office of Financial Management for Processing. A statement that review of the underlying decision is not being sought in the United States courts or that the process for seeking review of the award has been completed must also be included.

PART 18—ENVIRONMENTAL PROTECTION RESEARCH FELLOWSHIPS AND SPECIAL RESEARCH CONSULTANTS FOR ENVIRONMENTAL PROTECTION

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AUTHORITY: 42 U.S.C. 209; Pub. L. 109-54, 119 Stat. 531.

SOURCE: 71 FR 16702, Apr. 4, 2006, unless otherwise noted.

§ 18.1 Definitions.

As used in this part, continental United States does not include Hawaii or Alaska. The Administrator means the Administrator of the EPA and any other officer or employee of the Agency to whom the authority involved may be delegated. An Environmental Protection Research Fellowship is one which requires the performance of services, either full or part time, for the EPA. A Special Research Consultant

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for Environmental Protection is a special consultant appointed to assist and advise in the operations of the research activities of the EPA.

§ 18.2 Applicability.

The regulations in this part apply to the establishment of Environmental Protection Research Fellowships, the designation of persons to receive such fellowships, the appointment of Environmental Protection Research fellows, and the appointment of Special Research Consultants for environmental protection in the EPA. The EPA's statutory authority for these actions is established in Title II of the Interior, Environmental and Related Agencies Appropriations Act of 2006 (Pub. L. 109-54). Under an administrative provision of Public Law 109-54 the Administrator may, after consultation with the Office of Personnel Management, make up to five (5) appointments in any fiscal year from 2006 to 2011 for the Office of Research and Development under the authority provided in 42 U.S.C. 209. Appointees under this statutory authority shall be employees of the EPA.

§ 18.3 Purpose of Environmental Protection Research Fellowships.

Environmental Protection Research Fellowships in the Agency are for the purpose of encouraging and promoting research, studies, and investigations related to the protection of human health and the environment. Such fellowships may be provided to secure the services of talented scientists and engineers for a period of limited duration for research that furthers the EPA's mission where the nature of the work or the character of the individual's services render customary employing methods impracticable or less effective.

§ 18.4 Establishment of Environmental Protection Research Fellowships.

All Environmental Protection Research fellowships shall be established by the Administrator or designee. In establishing an Environmental Protection Research fellowship, or a series of Environmental Protection Research fellowships, the Administrator shall prescribe in writing the conditions (in

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addition to those provided in the regulations in this part) under which Environmental Protection Research fellows will be appointed and will hold their fellowships.

§ 18.5 Qualifications for Environmental Protection Research Fellowships.

Scholastic and other qualifications shall be prescribed by the Administrator or designee for each Environmental Protection Research fellowship, or series of Environmental Protection Research fellowships. Each individual appointed to an Environmental Protection Research fellowship shall: have presented satisfactory evidence of general suitability, including professional and personal fitness; possess any other qualifications as reasonably may be prescribed; and meet all requirements and standards for documentation and disclosure of conflicts of interest and ethical professional conduct.

§ 18.6 Method of Application.

Application for an Environmental Protection Research fellowship shall be made in accordance with procedures established by the Administrator or designee.

§ 18.7 Selection and appointment of Environmental Protection Research Fellows.

The Administrator or designee shall do the following: prescribe a suitable professional and personal fitness review and an examination of the applicant's qualifications; designate in writing persons to receive Environmental Protection Research fellowships; and establish procedures for the appointment of Environmental Protection Research fellows.

§ 18.8 Stipends, Allowances, and Benefits.

(a) *Stipends.* Each Environmental Protection Research fellow shall be entitled to such stipend as is authorized by the Administrator or designee.

(b) *Travel and transportation allowances.* Under conditions prescribed by the Administrator or designee, an individual appointed as an Environmental Protection Research fellow may be authorized travel and transportation or

relocation allowances for his or her immediate family under subchapter I of chapter 57 of title 5 U.S.C. 5701, in conjunction with travel authorized by the Administrator or designee. Included under this part is travel from place of residence, within or outside the continental United States, to first duty station; for any change of duty station ordered by the Administrator or designee during the term of the fellowship; and from last duty station to the place of residence which the individual left to accept the fellowship, or to some other place at no greater cost to the Government. An Environmental Protection Research fellow shall be entitled to travel allowances or transportation and per diem while traveling on official business away from his or her permanent duty station during the term of the fellowship. Except as otherwise provided herein, an Environmental Protection Research fellow shall be entitled to travel and transportation allowances authorized in this part at the same rates as may be authorized by law and regulations for other civilian employees of the EPA. If an Environmental Protection Research fellow dies during the term of a fellowship, and the place of residence that was left by the fellow to accept the fellowship was outside the continental United States, the payment of expenses of preparing the remains for burial and transporting them to the place of residence for interment may be authorized. In the case of deceased fellows whose place of residence was within the continental United States, payment of the expenses of preparing the remains and transporting them to the place of residence for interment may be authorized as provided for other civilian employees of the Agency.

(c) *Benefits.* In addition to other benefits provided herein, Environmental Protection Research fellows shall be entitled to benefits as provided by law or regulation for other civilian employees of the Agency.

(d) *Training.* Environmental Protection Research fellows are eligible for training at Government expense on the same basis as other Agency employees.

§ 18.9 Duration of Environmental Protection Research Fellowships.

Initial appointments to Environmental Protection Research fellowships may be made for varying periods not in excess of 5 years. Such an appointment may be extended for varying periods not in excess of 5 years for each period in accordance with procedures and requirements established by the Administrator or designee.

§ 18.10 Appointment of Special Research Consultants for Environmental Protection.

(a) *Purpose.* When the EPA requires the services of consultants with expertise in environmental sciences or engineering who cannot be obtained when needed through regular civil service appointment or under the compensation provisions of the Classification Act of 1949, Special Research Consultants may be appointed to assist and advise in the operations of the EPA, subject to the provisions of the following paragraphs and in accordance with such instructions as may be issued from time to time by the Administrator or designee.

(b) *Appointments.* Appointments, pursuant to the provisions of this section, may be made by those officials in the EPA to whom authority has been delegated by the Administrator or designee.

(c) *Compensation.* The per diem or other rates of compensation shall be fixed by the appointing officer in accordance with criteria established by the Administrator or designee.

§ 18.11 Standards of Conduct and Financial Disclosure.

All individuals appointed to an Environmental Protection Research Fellowship or as a Special Research Consultant shall be subject to the same current standards and disclosure regulations and requirements as Title 5 appointees.

PART 19—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

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19.1 Applicability.

19.2 Effective Date.